



28th September 2005

## **BT'S RESPONSE TO OFCOM'S FURTHER CONSULTATION "REVIEW OF THE UNIVERSAL SERVICE OBLIGATION"**

BT would welcome any comments on its position as laid out in this document which is available electronically at <http://www.btplc.com/responses>

Comments should be addressed to Jim O'Connor, pp C8 BT Centre, 81 Newgate Street, London EC1A 7AJ or by e-mail to [jim.je.oconnor@bt.com](mailto:jim.je.oconnor@bt.com)

or by telephone: 020 7356 7880.

Requests for this document in other formats should also be made to Jim O'Connor.

# **UNIVERSAL SERVICE OBLIGATION**

## **BT's RESPONSE TO OFCOM'S FURTHER CONSULTATION**

### **1. Summary**

BT supports the principle of Universal Service and we appreciate our wider responsibilities in the provision of certain services which have significant social benefit but are commercially unattractive.

We note Ofcom's conclusions on the costs of USO and look forward to working with Ofcom in the new year on data requirements.

Our response sets out our detailed comments. Some of the key points are highlighted below.

#### **Special tariff schemes and disconnection**

BT welcomes Ofcom's support for our new social telephony scheme. Its rental is less than half the price of BT's lowest priced commercial offering meaning consumers can have a fixed line for less than £5 a month.

Following concerns raised in the previous consultation, we have moved away from income as the eligibility criterion for the new scheme. Instead, we will ask potential customers to self-declare their eligibility against fair, transparent criteria.

It is essential that government agencies and consumer organisations play their part in raising awareness of the new scheme.

BT has a leading edge credit management process and a comprehensive range of products. We have several initiatives under way designed to reduce the number of BT customers disconnected from service.

#### **Public Call Boxes (PCBs)**

BT remains committed to providing and maintaining a quality public payphone service that meets consumer needs but the social role and economics of call boxes have fundamentally and permanently changed.

We are disappointed Ofcom has not taken this opportunity to undertake a fundamental review of the regulatory regime governing public payphones.

We support the proposed changes regarding the local veto and consultation for removal, but not the increase in consultation time from 42 to 90 days, 60 days is adequate. The proposed Guidance is not clear on what might be considered reasonable or should be taken into account by bodies making decisions on removals and we suggest an alternative methodology.

We support changes to the site definition, but this needs to be kept under review.

### **Services for customers with disabilities**

BT remains committed to providing services for those customers who cannot use standard facilities. Ofcom's stance is generally welcomed. In particular, the proposals to place equal obligations on all service providers is a positive step which will have customer benefit.

The advisory panel should have clear terms of reference and be facilitated and managed by an independent body.

The target of 80% of PCBs being wheelchair accessible needs to be adjusted to take account of the "red boxes" which cannot be adapted and have listed status in many cases.

### **Provision of a connection on reasonable request and functional Internet access**

We support Ofcom's consent to non-uniform charging above a threshold of £3,400.

The availability of mobile should be given more prominence in the test of reasonableness.

We agree there is no need for substantive change to the Guidelines on functional Internet access.

## **2. Special tariff schemes and disconnections**

### **2.1 Special tariff schemes**

BT welcomes Ofcom's support for the introduction of the new social telephony scheme proposed by BT.

At a time when telephony has never been more affordable, BT's proposals represent a compelling proposition for consumers who have problems affording fixed telephony service as a result of special social needs or low income. The existing schemes have served the UK well, but the time has come to introduce a new scheme that better meets current requirements.

#### **2.1.1 The New Scheme**

The new scheme will offer eligible consumers:

- access to a fixed line with an inclusive call allowance of £2 for £14.50 per quarter. This is less than half the price of BT's lowest priced commercial offering and means consumers will have access to a fixed line for less than £5 a month.
- the opportunity to reduce rental to £11.50 if they wish to pay by direct debit or monthly payment plan. Alternatively if, for whatever reason, a customer prefers not to use automated payment methods and pays their bill within eight calendar days they will benefit from an additional 'early payment' £2 call allowance.
- budgetary certainty. The low line rental teamed with a local and national call rate of 10p per minute will enable low income customers to manage their expenditure on telephony effectively. Furthermore, the option to request a pre-payment facility for calls will give further control as required.

The cost of providing this innovative new subsidised scheme will be significant for BT as the provider of universal service across the UK (other than Hull, where Kingston Communications has responsibility for USO). Whilst BT embraces its responsibilities as a USP, it is vital to ensure that the scheme is not subject to abuse and that it benefits those in need. This is a position that the Universal Service Directive supports. It makes clear the need to target subsidised social telephony at customers who have difficulty affording access to fixed telephony. Ofcom has also accepted the principle of a scheme targeted to those who have affordability issues.

In BT's original response to the consultation, our proposed approach to identifying a target market of those on low income was to use the Government's definition of the poor. Currently the Government defines poverty as households who have an annual household income of less than £10,400 (60% of median income). This equates to 2.4 million households across the UK, compared with 22m fixed telephone lines in the UK; or put another way a target market of 10% of the population.

Following concerns raised in the responses to the consultation, BT has moved away from income as the eligibility criterion for the new scheme. Instead, BT proposes to ask potential customers to self-declare that they are eligible for the scheme against fair, transparent criteria, specifically receipt of either income support or pensions credit and housing benefit. Based on information from the Department of Work and Pensions this equates to a target market for the new scheme of more than 3m households. This gives a much larger target market than the

government definition of low income households and uses those benefits which are generally accepted as being awarded to members of society in the most financial difficulty.

Ofcom's view that social telephony is not intended to subsidise the rental charge of consumers who make calls on other fixed network providers' networks is welcomed by BT. BT supports the position that subsidised social telephony should not be available to consumers using Indirect Access (IA) or Carrier Pre-Select (CPS). In addition, BT remains of the view that social telephony is not provided to subsidise use of mobile telephones. BT's revised proposals in this area ensure that those who are genuinely reliant on the telephone as a result of being either chronically sick or disabled are not penalised for their mobile phone usage. Ofcom's recognition that mobile customers able to make relatively high monthly rental payments should not have issues with the affordability of fixed line service is welcomed by BT. We believe that the new proposals for mobile exclusion are both pragmatic and reasonable.

It is sensible to close the existing schemes to new customers as soon as the new social scheme becomes available. This will ensure that marketing of the new scheme can offer clarity to consumers as to their long term choice for subsidised social telephony. BT is absolutely committed to the successful launch and ongoing marketing of the new scheme, however we recognise that the proposals from Ofcom regarding take-up are designed to provide an additional level of comfort to others regarding migration to the new scheme. On that basis, BT supports Ofcom's proposals.

For the proposed new scheme to be truly successful, it is essential that it is not viewed as solely BT's responsibility. Social telephony is designed to assist UK plc and as the universal service provider, BT can deliver part of the equation but other organisations have better, more effective links to the target recipients of this subsidised product. As a result, it is essential that these organisations play a role in the ongoing promotion of the scheme. Given the proposed eligibility criteria have a clear link to certain social security benefits it would be disappointing if, for example, the Department of Work and Pensions (DWP) was not willing to make this target audience aware of the availability of a subsidised social telephony product via its correspondence with this target group. Given that DWP already includes such messages on other 'essential services' BT can see no reason to suggest that this support will not be forthcoming, but includes this as an example of what a joined-up marketing strategy could include. BT, in conjunction with Ofcom, has already approached key consumer organisations to input to the development of the marketing strategy for the new scheme.

***Q1 Ofcom is seeking views on the proposal that BT should proceed with the revised targeted scheme and on Ofcom's proposed measures to ensure take-up***

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## **2.2 Disconnections**

As well as enabling consumers to become connected, universal service is also concerned with keeping consumers, particularly those on low incomes, connected. BT's figures show that customers on existing social telephony schemes are ten times less likely to be disconnected than any other customer. Despite this, Ofcom has commented on the difference between BT's overall disconnection figures and those of other communications providers. All these figures are in the region of 5 per cent of the customer base. Given that as a universal service provider BT is required to provide service to any customer who asks for it (whereas non-USO providers can, and do, refuse to provide service to customers they know or suspect have a poor credit history) it could be said to be surprising that there is not more of a difference between providers.

Despite what we believe to be a leading edge credit management process and a comprehensive range of products, BT does not suggest that our systems cannot be improved. There are many initiatives already under way designed to reduce the number of BT customers disconnected from service each year, including the better promotion of BT's Pay & Call service and more targeted communications.

## **2.3 Vulnerable customer disconnection**

BT notes Ofcom's proposals that all providers of fixed line services should put in place measures to avoid disconnecting customers on the schemes provided under General Condition 15. In discharging its obligations under General Condition 15, BT offers a free priority fault repair service and a free protected service scheme. The former is self-explanatory and the latter gives consumers the ability to nominate a third party to be contacted prior to disconnection for non-payment. BT's protected services scheme is made generally available to all who would wish to benefit from the additional degree of protection it offers and is not currently limited, for example, to those who are chronically sick or disabled.

BT believes that the existing process offers appropriate protection to vulnerable customers and questions whether it follows that all customers on the free priority fault repair service would automatically wish to avail themselves of the protected services scheme. Given that there are no barriers to prevent any customer requesting the reassurance of the BT protected services scheme and both schemes are fully documented in BT's Code of Practice, BT is of the view that no further action is needed to meet Ofcom's requirements in this area. Para 4.33 of this response also refers.

### **3. Public Call Boxes**

#### **3.1 Introduction**

Consumer demand for public payphone service has declined, and the decline is progressively accelerating in line with mobile growth. As a result the social role and economics of public call boxes have changed fundamentally and permanently. BT remains absolutely committed to providing and maintaining a quality public payphone service that meets consumer needs, but undoubtedly consumer requirements are not what they were. We are disappointed Ofcom has not taken this opportunity to undertake a fundamental review of the regulatory regime governing public payphones. However, BT is pleased Ofcom has proposed changes to the current unworkable removal process which has seen BT obliged to consult with c12,000 organisations on proposed public call box removals and being confronted with a random approach to decision making from those organisations.

#### ***Q 2 Ofcom is inviting views on amendments proposed in Annex E to the USO designation to implement the changes to the definition of Site.***

BT supports the proposal to increase the site definition in Annex E. The current site definition of 100m between unprofitable PCBs is undoubtedly over-provision when considered against the Universal Service Obligation of adequate provision to meet consumer needs. BT supports 400m as an appropriate distance between payphones for adequate access to payphone services at this time. It represents a sensible balance between ensuring an adequate PCB network to meet the reasonable needs of end users and allowing the universal service provider to respond flexibly to commercial pressure. It is, however, essential that this definition remains open to review in order to take account of future changes in public usage as current trends indicate that public use of payphones will continue to decline.

BT would wish to ensure clarity regarding the impact of this proposed site definition change. BT would not peremptorily remove boxes located within the site definition of another but would look at each PCB on a case by case basis.

#### ***Q 3 Ofcom is inviting views on amendments proposed in Annex G to the Direction on PCBs to implement the changes to:***

##### ***Q3 (a) the definition of Site***

BT supports the amendments in parts 2.1 to 2.4 of the Direction as proposed in Annex G, with the exception of Part 2.2 c and Part 2.3 c.

Part 2.2 c, sets out an additional requirement to provide on the removal notice posted in the public call box “the address of the nearest alternative Public Call Box providing call box services”. Assuming this requirement is designed to assist consumers in ascertaining the location of the nearest alternative payphone, BT does not consider this to be an effective proposal. For example, if the nearest alternative call box is due north from the call box being considered for removal, and a particular user already lives due south of the existing box, then the alternative call box detailed may not be the best option for the consumer as there may be a closer one. Providing bespoke information for each PCB is very difficult to do in practise and the potential for errors in the delivery process is also a factor in BT’s concerns. BT proposes that Ofcom considers an alternative approach, specifically the inclusion of an 0800 service from which consumers can obtain details of the alternative boxes in the area. BT

therefore suggests that Part 2.2 c) of the Direction is amended to read “a free to call number, where an end user can obtain the address of the nearest alternative Public Call Box providing call box services”. This suggested change if agreed, would also need to be made in the third bullet point in item 4.1 in the guidance notes in Annex H.

Part 2.3 c, sets out an additional requirement to provide on the written notice of proposed removal to the Relevant Public Body setting out “the consultation and notification procedures”. We do not consider it reasonable to expect BT to provide all of the detail of these procedures (shown in your Annex H) with each written notice of proposed removal. We consider an acceptable alternative would be to include in our written notice information where the Relevant Public Body can obtain information on the procedures. If for example this information was available on Ofcom’s website then we could provide details of that and a brief paragraph (which Ofcom may wish to provide) on our written notice explaining what these are.

We would therefore suggest that Part 2.3 c) of the Direction is amended to read “ details of where the consultation and notification procedures can be obtained”. This suggested change if agreed, would also need to be made in the third bullet point in item 5.1 in the guidance notes in Annex H.

### ***Q3 (b) the public bodies with the local veto***

BT supports the proposals that the right of veto within the consultation process should be held by a single public body in each area. This will greatly reduce the number of public bodies who will manage the consultation process which will benefit all stakeholders and end users involved in, or using the consultation process. We therefore support the amendments in Part 1: Definitions and Interpretation, of the Direction as proposed in Annex G

### ***Q3 (c) the extended consultation period***

BT remains concerned about the proposed increase in the consultation period from 42 days to 90 days, which will add a further two months to the existing nine month average time taken to complete removal of a public call box. We accept an increase may be needed but consider 60 days to be adequate, particularly with the introduction of new consultation guidelines to the relevant public bodies which we would expect to enable them to handle consultations more quickly.

### ***Q3 (d) cashless PCBs***

BT welcomes Ofcom’s proposal to enable a percentage of PCBs not to provide cash payment facilities. In locations where there remains a need for an emergency calls facility, third parties have proposed to BT that only a simple payphone should be retained, for example one without cash payment facilities. To date, the regulatory regime prevents this. Ofcom’s proposal to allow greater flexibility to remove cash payment facilities at some public call box sites is therefore welcome. Apart from enabling BT to provide payphone service in little-used locations more economically, it would also assist, for example, where a particular PCB is subject to repeated vandalism and cash attacks. In this circumstance, making a call box cashless would benefit consumers as it is likely to have fewer breaks in service resulting from such attacks. Consumers would still be able to make calls from the payphone using all existing payment methods at that PCB other than cash.

BT, therefore, has no comments on the amendment in Part 2.6 of the Direction as proposed in Annex G . We would however wish to flag that there is inconsistency in the wording used in

different parts of the Statement, regarding payment methods at public call boxes that do not accept cash. Specifically that paragraph 5.47 in Section 5 referred to “card payment” whereas Annex H, paragraph 11.2 refers to “credit/debit cards and pre-payment cards”. BT's preference would be to see the terminology standardised to 'card payment'.

We also note in section 5 paragraph 5.48 of the Statement that it says in relation to cashless PCBs that “It will be possible for customers to make a call from a BT PCB for the existing minimum fee.....”. Whilst it will remain possible<sup>1</sup> for consumer to make a call for the existing minimum fee, the typical profile of the PCBs that BT would wish to consider removing the cash payment facility is such that they would have very low cash usage. For example, BT proposes to review PCBs in very rural or remote sites, such as in national parks, where there is no local community being served. The option of removing the cash payment facility greatly reduces the cost of providing such PCBs and enables their retention with all current functionality other than the ability to pay in cash. BT therefore questions the relevance of the requirement to make a call for the existing minimum fee in these circumstances.

#### ***Q 4 Ofcom is inviting views on guidance proposed in Annex H.***

This is a critical element of the proposed delegation of authority for BT as a Universal Service Provider. Whilst Ofcom has indicated, as part of the current street payphone removal process, that objections to proposed removals should be supported by reasons, experience to date has shown the approach by local bodies to be random in many cases. The guidance proposed in Annex AA on factors to be taken into consideration is, therefore, of great concern to BT. It does not give clear guidance as to what might be considered reasonable or indeed what should be taken into account. This must be addressed if there is to be a consistent approach to decision making. BT does not consider that the requirements in paragraph's 5.36 of the Statement - specifically that “Decisions must be objectively justified, not discriminate unduly, be proportionate to what is intended to achieve and transparent.” can be fulfilled if the guidance is not clear on what might be reasonable to take into account when making such decisions.

BT believes that it is vital for the delegated bodies to understand the universal service obligations associated with public payphone provision; namely that the USPs responsibility is to ensure the adequate provision of PCBs to meet the reasonable needs of end-users in terms of geographical coverage. It is against this top-level obligation that requests for removal should be assessed. Ofcom then needs to provide clear guidance on what it might be reasonable to take into account when making each decision.

It is reasonable to consider the number of households, the housing type, and the level of revenue taken by the call box as part of the removal decision. However, given obligation of adequate provision of PCBs, BT believes it to be impossible for bodies to make decisions on payphone removals without knowledge of payphone provision levels in that locality and

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<sup>1</sup> Calls can be made from cashless boxes using the BT Chargecard service where the minimum fee from a public call box is currently 21.6 pence. There are also a wide range of prepaid cards available from other communications providers offered at very competitive rates.

proposes that this be added to the list of factors for assessment. Indeed, we believe it is the first factor that should be assessed.

BT continues to question the inclusion of mobile coverage as a factor to be taken into account. Customer usage of a box is a more relevant measure that will take into account whether people use the box regardless of whether there is mobile coverage

BT therefore strongly recommends to Ofcom that the following four factors form the basis of the guidance for decision making on public call box removals:

- the nearest alternative public call box;
- the number of households;
- the housing type; and
- the level of revenue taken by the call box.

Annex 1 details BT's proposals for the guidance to the relevant public bodies based on the above four factors, this also includes an alternate variant based on the current payphone provision assessment table contained in the existing Direction on Payphones. If this proposal is accepted, BT would set up a process to provide the delegated bodies with the relevant information on customer usage and the distance to the nearest alternative box within the written notice of proposed removal.

Finally, given that Ofcom has proposed to delegate its current powers to alternative bodies, BT assumes that Ofcom will ensure that these bodies are fully educated as to the power that has been delegated and the responsibilities it entails. BT would welcome some text from Ofcom for inclusion in the consultation letters that explains this.

## **4. Services for customers with disabilities**

### **4.1 Introduction**

BT remains absolutely committed to providing services for those customers who cannot use standard facilities and agrees that some of the most important Universal Service measures relate to the provision of service for customers with disabilities. Ofcom's stance is generally welcomed, particularly the proposals to place equal obligations on all service providers is a positive step which should have consumer benefit.

### **4.2 The Relay Service**

BT acknowledges that the text relay service (currently managed under the brand names of BT Text Direct and RNID Typetalk) is rooted in traditional voice telephony. However, the assertions by stakeholders that the service has not kept pace with technology are unfounded. The service is world-class and considerable technological development has created benefit for stakeholders and consumers. Detailed information on how the service has been improved has been provided by BT in Annex 5 of its response to Ofcom's consultation "Review of the Universal Service Obligation" published 21 March 2005<sup>2</sup>. BT sees no benefit in reiterating this information. BT is, however, most concerned that Ofcom's continued stance in this area appears to be based on perception rather than fact.

As universal service provider BT alone carries the responsibility (under USO Condition 4) to fund and provide access to the text relay service. BT strongly believes that the current regulated funding cap is acting as a barrier to effective evaluation of the service. The financial limits detailed within the universal service conditions are no longer appropriate and create a perception that unless the entire funding limit is spent the service may be under-funded. The time has come for Ofcom to take action to remove the funding cap and ensure that end user perception of the quality of the text relay service becomes the sole criterion under which the service is judged.

Text relay remains the only real-time, two-way method for communication via the telephony network that does not require the caller to have prior knowledge of the terminal equipment used on the number they are dialling. Many businesses actively promote the use of alternative access numbers equipped with Textphones to deal direct with Textphone users without the need for relay and this is best practice both for the user and in terms of utilisation of the scarce and expensive relay resource. However, it is clear that many businesses do not provide direct Textphone access and as such utilise the relay service to discharge their obligations under the Disability Discrimination Act 1995. In this way the cost of compliance with the DDA is borne solely by the communications industry, both in terms of provision of the relay service and the rebate applied to the customer's bill for the call. This issue becomes particularly significant as technological opportunities for alternative communication mechanisms are developed. Ofcom must look to tackle this situation, in conjunction with others as appropriate, going forward.

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<sup>2</sup> <http://www.btplc.com/Thegroup/Regulatoryinformation/Consultativeresponses/Ofcom/2005/USO/index.htm>

#### **4.2.1 Video Relay**

BT continues to believe that the provision of video relay is not proper to Universal Service, or to communications regulation. Already more than one video relay service is being trialled within the UK, supporting BT's view that such services should be provided on commercial terms. That said, BT has already confirmed its support of Ofcom's proposal to commission a study into the provision of a video relay service and awaits the outcome with interest, particularly given the extension to include speech relay and captioned telephony.

#### **4.2.2 Stakeholder Advisory Panel**

BT supports and welcomes Ofcom's suggestion to establish an Advisory Panel to offer advice and maintain a dialogue with the funder (BT) and the relay service provider (currently RNID Typetalk) to overcome an alleged perception from stakeholders that the service is remote and lacks transparency.

It is vital that the Stakeholder Advisory Panel has clear terms of reference (TOR) and objectives at the outset. BT is disappointed that Ofcom has not taken the opportunity to do this and believes the role of the Panel and its members must be defined as an essential precursor to any further activity if potential ambiguity and conflict is to be avoided. BT set out its proposals for the TOR and the management of the Panel in detail in its answer to question 13 of the 21 March 2005 response to USO. This is attached again for ease of reference at Annex 2.

BT acknowledges Ofcom's proposal that the relay service funding provider (BT), the relay service provider (RNID), one fixed line provider and one mobile operator should be permanent members of the Panel. BT believes that it would be prudent for the Panel to have at least one more member drawn from industry. All other Panel members should be users of the service or represent groups of users as they are in the best position to give views on service experiences and proposed future developments.

BT is not best placed to act as facilitator of the Panel and it is inappropriate for the costs of the stakeholder panel to be borne under the management of the relay service. BT-provided facilitation services may result in stakeholder perception that the aim of increasing transparency of the service is compromised. BT is also concerned with Ofcom's proposals that members should receive travelling expenses along with a daily allowance (where they do not receive a salary for their role) may encourage inappropriate membership and that the cost of funding the text relay service will be increased. Of those within the industry that returned comment on this proposal under the previous consultation, concern in relation to increased cost was a common theme. BT therefore proposes that the facilitation and management of the Panel should be undertaken by an independent body and that this role should be put out to tender by Ofcom with the costs shared by those communication service providers whose customers use the service. Alternatively Ofcom may determine that it is best placed to fulfil this role.

It is imperative that Ofcom remove any intimation within the Statement that the terms 'relay service provider' and RNID [Typetalk] are synonymous. BT has freedom to select a relay service provider, so long as it meets the standards required. Going forward, it would be more appropriate for the relay service to be measured on its quality of service and adherence to any regulatory obligations regarding technical delivery and functionality. It is out of step with the

requirement to have 'efficiently incurred costs', that the provider of the service be 'approved' by Ofcom, unless of course this approval by Ofcom is purely to ensure that the proposal does indeed effectively discharge any regulatory obligations in relation to its technical delivery and functionality.

#### **4.2.3 Annual Plan and Report for the Relay Service**

BT welcomes Ofcom's proposals for the introduction of an annual plan for the service and report on past year delivery. However, as BT alone carries the obligation to fund and provide access to the relay service to other communications providers, BT must have the commercial freedom to decide how these responsibilities should be met.

BT proposes that the content of these reports (which may or may not be produced as a single document) would reflect the agenda of the proposed Stakeholder Advisory Panel and that the Stakeholder Advisory Panel would be invited to offer comments and feedback prior to publication. BT would, however, retain responsibility for production of these publications with right of veto over content.

#### **4.2.4 Mobile/Email Access**

BT agrees with Ofcom's conclusions (the case had not been made for enabling SMS or email messages to a textphone) and supports continuation of status quo.

### **4.3 Other issues**

#### **4.3.1 Provision of Bills and Contracts in an acceptable format**

BT is proud of its performance in this area and is confident that Ofcom's proposed amendment to GC15 (to require bills and contracts in acceptable formats to be delivered in a timely manner to subscribers who are not able to read conventional print because of their disability) will be achievable.

#### **4.3.2 Consultation by Providers on the requirement and interests of disabled end-users**

BT supports the proposal that the requirement to consult on issues on the requirements of disabled end users should change from the Consumer Panel to Ofcom.

#### **4.3.3 Extending the nominated third party scheme**

Ofcom has proposed that the nominated third party scheme should be extended to meet the needs of end-users who may have a long and unexpected stay in hospital or due to confusion forget to pay their bill and then run the risk of disconnection. The BT Protected Service Scheme has as its only eligibility criterion that a nominee agrees to act on the customer's behalf should a bill go unpaid. BT's existing scheme, therefore, meets the proposed recommendation.

#### **4.3.4 SMS Access to the Emergency Services**

Ofcom has recognised that there are situations in which it would be beneficial for people to be able to contact the emergency services by SMS. BT along with Ofcom participates in the

work of the Emergency SMS Sub-Group of the 999/112 Liaison Committee chaired by the Office of the Deputy Prime Minister. The sub-group is identifying the issues which need to be resolved before nationwide SMS access to the emergency services could be made available. BT awaits with interest any recommendations and conclusions within this area as and when these become available.

#### **4.3.5 Accessible Communication Apparatus**

Terminal equipment falls outside the scope of Universal Service. However, outside of the USO, BT produces communications apparatus following the ‘design for all’ principles in a number of its products (e.g. Big Button range and Relate 3000). BT also designed and makes available the BT Textphone which remains to our knowledge the only rental based textphone on the market. Provision of terminal equipment is a distinct market from telephony and should remain as such.

#### ***Q5 Ofcom is inviting views on amendments proposed in annex F to General Condition 6 to implement change to the accessibility of PCBs***

BT has no comments on the amendments to parts 6.3 (a) iii) and 6.3 (a) iv) of General Condition 6 as proposed in Annex G. BT already provides additional receiving amplification in more than 80% of PCBs and also has apparatus enabling persons using hearing aids designed for use in conjunction with telephones of the kind installed in PCBs to use such hearing aids, in 100% of PCBs.

BT does, however, have concerns relating to the increased proposals for wheelchair accessibility. Over 20% of BT’s currently installed payphone base comprises K-series PCBs or ‘red boxes’ as they are more generally known. As a result of their design these boxes cannot be adapted to enable wheelchair accessibility. Ofcom’s proposal to require BT to ensure at least 80% of PCBs are wheelchair accessible will leave BT with no option but to remove existing red boxes and replace with newer style accessible boxes. The situation is further complicated as a significant proportion of red boxes have already been given listed status by English Heritage which prevents their removal. A quick glance at the English Heritage website<sup>3</sup> demonstrates the popularity of the red boxes within the British consciousness. It would not be unreasonable to suggest that should the public perceive that red boxes are under threat then more requests for boxes to be given listed status would be forthcoming<sup>4</sup>. It should also be noted that BT’s public payphone rationalisation programme means that the overall number of public call boxes in the UK will decrease in line with consumer demand, and the proportion of red boxes within this number is therefore likely to increase.

BT is therefore unable to support the proposal as stated within the draft regulation as this target figure is unattainable and is outside of BT’s direct control. Additionally, BT fails to understand why Ofcom considers it appropriate that the figure for wheelchair accessibility proposed upon Kingston Communications (operating PCBs within Kingston upon Hull) should be set at only 50% whereas BT’s target is 80%.

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<sup>3</sup> <http://www.english-heritage.org.uk/>

<sup>4</sup> Indeed, reaction to BT’s street payphone rationalisation programme has shown a higher level of objections relating to red boxes and greater numbers of applications for listed status being lodged with English Heritage.

BT has no desire to embark upon a programme of red box removals, yet Ofcom's proposals would leave BT no option but to take this course of action. BT urges Ofcom to reconsider this proposal and offers two possible alternative approaches:

1. To exclude red boxes from the requirement to provide wheelchair accessibility and to set a 100% target for all other types of public call boxes.
2. To set an accessibility target based on the proportion of customer use. For example, a measure that 80% of customers who use Public Call boxes will have wheelchair access available.

BT is also concerned to read Ofcom's comments that there has been no consultation regarding design changes to telephone kiosks. BT has discussed all proposed public payphone modifications with Oftel<sup>5</sup> and various consumer representative groups prior to any implementation. BT remains committed to the continuance of this manner of consultation within the current regulatory environment and would welcome the opportunity to work with Ofcom to agree this process. BT therefore supports continuance of the existing condition as expressed by Ofcom under Option 2 of the original USO consultation.

***Q6 Ofcom is inviting views on amendments proposed on Annex I to General Condition 15 to implement the changes to the obligations to provide:***

- ***Bills and contracts in acceptable formats***
- ***Short code number access to a Directory Enquiry Facility***

BT supports the proposals for change to both bills and contracts in acceptable formats and the removal of short number access to a Directory Enquiry Service.

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<sup>5</sup> No kiosk modifications have been introduced since the inception of the Consumer Panel, Advisory Committee or Ofcom.

## **5. Provision of a connection upon reasonable request and functional Internet access**

### **5.1 Reasonable Requests**

#### **5.1.1 Explanatory Memorandum and Consent to non-uniform charging**

BT agrees that the application of a threshold is a sensible approach that meets the needs of efficiency, consistency and fairness. It ensures that customers with exceptionally costly requirements are not inappropriately subsidised by the vast majority of customers. We therefore support Ofcom's consent to non-uniform charging above a threshold of £3,400.

#### **5.1.2 Reasonable Requests: Guidance**

We are pleased the Guidance acknowledges mobile availability as a factor in assessing whether a request for service is reasonable. However, we believe this should be the sole factor on which the test of reasonableness is made in the event of a customer's request for service incurring excess construction charges under the Universal Service Obligation. BT should have the freedom to refuse requests for service as unreasonable when the costs of provision are out of all proportion to the likely level of use of the line and where alternative more cost effective solutions such as mobile are available. This should be the case regardless of the individual personal circumstances of the customer requiring service. Where there is no alternative means of providing service then the proposed Guidance should apply.

#### **5.1.3 Reasonable requests: New property developments**

BT welcomes Ofcom's clarification regarding new developments. In these situations, BT is reliant on the cooperation of third parties to allow access for it to deliver against its Universal Service Obligation. If this is not forthcoming then BT has to resort to its powers under the Communications Code, with all the resulting delays this brings to customers and added costs to BT. Any clarification issued by Ofcom should make explicit what these Code Powers are so all interested parties are under no doubts about the remedies available to them.

Clarification regarding the status of costs incurred in such situations with regards the £3,400 threshold for excess costs of provision would also be welcomed.

### **5.2 Guidelines on Functional Internet Access (amendment)**

We are happy to provide Ofcom with regular reports concerning functional Internet access. We believe quarterly reporting would impose an undue administrative burden on both ourselves and Ofcom. Reporting every 6 months would be sufficient to enable Ofcom to monitor BT's compliance with the Guidelines.

Reporting the number of complaints from end-users on connection speeds for Internet access and BT's assessment of the underlying cause for each case would place an onerous burden on BT to compile and on Ofcom to analyse and interpret. The focus of reporting should be to ensure compliance with the Guidelines and their effectiveness on the customer's experience. The customer's Internet experience is dictated by several factors such as data network congestion, far end server loading and the configuration of the ISP which links the customer.

Customers experiencing any of these problems are likely to complain to BT of slow connection speed when in fact the performance of the narrowband connection could be good. Furthermore, customers used to fast Internet access, at work for instance, may perceive the performance of their narrowband connection to be slow in comparison. Such customers may be minded to complain to BT of slow line speed with no foundation in fact. We are concerned that reporting the number of complaints will paint a misleading picture and one that is not relevant to making an assessment of the effectiveness of the Guidelines.

We therefore do not believe that it is appropriate to report the number of complaints from end-users on connection speeds for Internet access and BT's assessment of the underlying cause for each case. What is important is what happens once the Guidelines are applied. The measures of average final connect speed of customers and numbers of substantiated complaints regarding D-side and E-side cables satisfy this requirement.

## 6. Maintenance and supply of a Directory Information database and Directories

BT is disappointed that Ofcom does not deal with the issue of provision of the BT Phone Book to its competitors on similar terms to provision of the source data, which we raised in our March response. Given that Communications Providers have access to this source data, BT considers that the extension of these terms to the printed Phone Book is unjustifiable. BT is therefore seeking the following amendment to USO Condition 7:

*7.2 BT shall, in accordance with paragraphs 7.3 and 7.4 below, and on request, make available:*

*(a) ~~to any Communications Provider subject to paragraph 8.2 of General Condition 8 for the purpose of allowing that Communications Provider to comply with that paragraph, to any person~~ such Directories as BT compiles which comply with the requirements of ~~that~~ General Condition 8, paragraph 8.2;*

*(b) to any person seeking to provide publicly available Directory Enquiry Facilities and/or Directories, the contents of the database, in machine readable form.*

*7.3 BT shall supply the items in sub-paragraph (a) and (b) of paragraph 7.2 above at the reasonable request of the person requesting such items. Without prejudice to the generality of the foregoing, BT may refuse to supply such items if:*

*(a) the person requesting such items does not undertake to process the data or information contained in them in accordance with any Relevant Code of Practice, and/or*

*(b) BT has reasonable grounds to believe that the person requesting such items will not comply with Relevant Data Protection Legislation.*

*7.4 BT shall supply the items in sub-paragraph ~~[(a) and]~~ (b) of paragraph 7.2 above on terms which are fair, objective, cost oriented and not unduly discriminatory, and in a format which is agreed between BT and the person requesting the information. Where no such agreement is reached, the Director may determine the format to be applied to the information in accordance with his dispute resolution functions.*

## **Annex 1: Proposed Guidance Annex XX**

### **Purpose of this guidance**

**AA.1** This is to give guidance on the factors to be take account of when considering requests for complete removal of public call boxes and/or call box services from a site. They are intended to promote consistency of decisions between relevant public bodies. Any decision of a relevant public body must comply with the requirements in paragraphs 7.2 and 7.3 of this guidance.

**AA.2** Under the Universal Service Obligations associated with public payphone provision it is the universal service provider's responsibility to ensure the adequate provision of public call boxes to meet the reasonable needs of end-users in terms of geographical coverage. This is an important part of the assessment process and it is against this obligation that requests for removal of call boxes must be assessed.

**AA.3** It is likely that relevant public bodies will already have access to information against which they can make an assessment. While the following is not an exhaustive list of sources of information, relevant public bodies might consider:

- ACORN is a demographic tool used to identify and understand the UK population – [www.caci.co.uk](http://www.caci.co.uk)
- PRiZM is a commercial product built from lifestyle and demographic data at postcode level – [www.claritas.co.uk](http://www.claritas.co.uk)
- The National Statistics Service offers access to a range of social and economic aggregate data relating to small geographic areas – [www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk)
- UpMyStreet lets you search and compare detailed information about a specific postcode, city, town, district or region – [www.upmystreet.com](http://www.upmystreet.com)

### **Factors**

**AA.4** Four key factors should be assessed when considering a request for removal of a public call box. These are, the number of households, the housing type, the level of revenue taken by the call box and the nearest alternative public call box.

#### **The nearest alternative Call box**

**AA5** The Universal Service Provider (BT or Kingston) will provide details of the nearest alternative call box and its distance from the box being considered for removal, within the written notice of proposed removal. When considering the distance to the nearest alternative call box, within 400-800 metres would be considered as a reasonable 5-10 minute walking distance whilst beyond 9,600 metres would be a less reasonable distance. It follows, therefore, that if for example the nearest alternative box is between 400 to 800 metres it is less reasonable to object to removal of the call box concerned.

#### **The Number of Households**

**AA.6** The number of households, within the 400 metres catchment area of the call box being considered for removal, should be assessed and taken account of. Less than 100 households would be considered a low number of households, whilst more than 500 would be considered

a high number. If there is a low number of households, then it is reasonable to conclude there is less need for the call box and it is less reasonable to object to its removal.

### **The Housing Type**

**AA.7** The housing type, also within the 400 metres catchment area of the call box, should be assessed and taken account of. When considering housing types, whilst not an exhaustive list it is recommended that the presence of the following types should be assessed; Quality Private, General Private, Private rented or multi-occupancy, Good Social Housing or Poor Social Housing. The more private owner occupied housing in the catchment area the likelihood of dependency on public call box services decreases and it is less reasonable to object to its removal.

### **The Revenue taken by the call box**

**AA.8** The Universal Service Provider (BT or Kingston) will provide details of the current level of usage in the call box concerned, within the written notice of proposed removal. Box takings of less than £200 per annum revenue indicates very low use of the payphone by consumers, whilst more than £1,500 per annum would be considered as high. If the level of revenue taken by the call box is low i.e. less than £200 per annum, this reasonably indicates it is of less value to the community it serves and it is less reasonable to object to its removal.

### **Considering all factors**

**AA.9** An overall conclusion on whether it is reasonable to object should take account of the above four factors as a minimum requirement. It should also consider the assessments across all four factors. It may not be reasonable to object on the basis of an assessment of one factor only. For example if a call box revenue was £500, but there was far less than 100 households which were all quality private houses and the nearest alternative box was within 450 metres, it would not be reasonable to object to removal on the basis of the call revenue level when the other three factors do reasonably support removal.

### **Alignment to PCB Provision Process**

It is possible for Ofcom to standardise the approach to payphone provision under the USO by utilising the existing process for new box provision and adapting it for payphones removal with some adjustments. The table below takes the factors proposed by Ofcom and BT for assessing payphone removals (as detailed in AA.4 – AA.8 above) and is based on the table currently used to establish if a new PCB should be provided which is detailed in paragraph 2.8 of the existing Direction. The revised table shown includes the fourth factor for PCB current usage, and BT’s proposed scores for that. The scores allocated to the first two factors are unchanged from the existing Direction but BT has proposed a change in the score options under the third factor “nearest alternative PCB”, from the current mix of time to walk and distance in miles, to consistently showing distances. Additionally BT has proposed one change in the scores for the “Nearest Alternative PCB” where “Within 800 – 1600 metres” is scored as 2. This compliments the change to just showing distances and more logically reflects the distance step changes.

The delegated body would use the table to consider if a request to remove a call box is appropriate by assessing the scores on each factor and if there is a total score of greater than 12, it would be reasonable for them to recommend that the box is not removed.

If Ofcom decides that this assessment approach is more appropriate, BT believes the following changes should be made to the proposed guidance:

Paragraph **AA.9** above to be removed and replaced by the next two paragraphs and the inclusion of the table in figure 1.

**AA.9** An assessment of each of these four factors can be carried out using the table below at Figure 1. The Universal Service Provider (BT or Kingston) will provide details of the nearest alternative call box and its distance from the box being considered for removal, and also the current level of usage in that box, within the written notice of proposed removal. The public body considering the request for removal will need to carry out their own assessment of the number of households and the housing type as already referred to in **AA 5** and **AA6** above.

**AA.10** Having assessed the number of households and the housing type and taken account of the information provided by the relevant universal service provider, the relevant body should use the table at Figure 1 to assess an overall score in relation to the call box concerned. If there is a total score of greater than 12, it would be reasonable to recommend that the box is not removed.

**Figure 1**

<b>Size of community</b>	<b>Score</b>	<b>Housing type</b>	<b>Score</b>	<b>Nearest alternative PCB</b>	<b>Score</b>	<b>Current PCB usage</b>	<b>Score</b>
Less than 100	1	Quality Private	0	Within 400 – 800 metres	1	Less than £200	0
100-200	2	General Private	2	Within 800 – 1600 metres	2	Greater than £200 but less than £500	1
200-500	3	Private rented or multi - occupancy	4	Within 1600 – 4800 metres	4	Greater than £500 but less than £1000	2
500 plus	4	Good social Housing	4	Within 4800 -9600 metres	5	Greater than £1000 but less than £1500	3
		Poor Social Housing	6	Further than 9600 metres	6	Greater than £1500	4

## **Annex 2: Stakeholder Advisory Panel Terms of Reference**

Prior to the set up of the Panel considerable thought will need to be given to the management and funding of the events themselves not exhaustively including, independent management and facilitation, meeting management, membership, communication, travel costs, venue arrangement/hire and provision of appropriate communication facilities for all stakeholders. BT, as the major stakeholder, would not wish to influence unduly the Panel by taking on this role and would anticipate that an appropriate share of the funding be levied on all those parts of the industry involved. Shared industry responsibility will better ensure transparency, accountability and impartial operation. We set out below our view on representation, terms of reference, annual report content and its role in relation to the panel. These are BT's initial views, and we remain interested in and open to the contributions of other respondents as this concept is developed.

### **Representation**

Key stakeholders include the following: people who use the service and bodies which represent them and possibly individuals with a particular interest; organisations which fund the service including fixed and mobile network operators and service providers and BT itself; Ofcom; businesses and government organisations which rely on the service for DDA compliance.

Membership of the Advisory Panel would be drawn from the above constituency. It is recommended that the panel should not exceed 20 members to ensure that meetings are effective. This membership would form the voice for the forum. BT as provider of the service would attend, and present, and be supported by key suppliers as required. BT's view is that the relay service provider would also always attend meetings, in support of BT, in order to receive and respond to stakeholder opinion directly with its own expert view.

### **Terms of reference**

The aim of the Advisory Panel would be to ensure that BT's strategies and plans are duly informed as to:

- the needs of consumers
- the needs of business, government and other organisations who use the service
- the needs other network operators and telephony service providers in relation to their own regulatory obligations.

The Advisory Panel would not be a decision-making body, would not hold a veto, and if properly constituted and managed, should not act as a brake on efficient forward planning and implementation of change

The subject matter for consideration by the Advisory Panel should include:

- Customer requirements and opinion.
- Quality of service targets and performance.
- Product and service developments.

It would not include:

- Operational matters
- Commercial or contractual issues between BT and its suppliers.
- Commercial issues between BT and other network operators and service providers to whom it provides service.

### **Meetings**

BT recognises that it may be difficult to manage discussion at Advisory Panel meetings where interests may diverge strongly. For example, consumer bodies are expected to be mainly interested in service as it affects end-users; network operators and service providers

may have a strong interest in technical developments, and not unreasonably in the drivers of costs eventually re-charged to them.

The best way to deal with this divergence would be to make customer service the prime focus for Advisory Panel meetings, holding separate meetings if required for those on the supply side. BT proposes that two meetings be held annually. The first would cover:

- Review of service performance against target for previous year.
- Review of service developments in previous year.
- Summary of customer feedback gained from various channels.
- Customer service expectations for coming year.
- Service and product developments planned for coming year.
- General discussion and feedback.

The second would occur 6 months later and cover:

- progress against plans and expectations previously outlined
- any new issues which have emerged
- further discussion to help early work on development of following year's plan.